

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WASICA FINANCE GMBH and BLUEARC
FINANCE AG,

Plaintiffs,

v.

SCHRADER INTERNATIONAL, INC.,
SCHRADER-BRIDGEPORT
INTERNATIONAL, INC., SCHRADER
ELECTRONICS LIMITED, and
SCHRADER ELECTRONICS INC.,

Defendants.

C.A. NO. 13-1353-LPS

JOINT PROPOSED VERDICT FORM

Pursuant to D. Del. L.R. 51.1 Plaintiffs Wasica Finance GmbH and Bluearc Finance AG (collectively “Plaintiffs”) and Defendants Schrader-Bridgeport International, Inc., Schrader Electronics Limited, and Schrader Electronics Inc. (collectively “Schrader” or “Defendants”) submit the following Proposed Verdict Forms. The parties were unable to agree on a proposed verdict form, and so submit two separate forms for the Court’s consideration.

Plaintiffs’ Proposal: Defendants have proposed placing a license question on the verdict form, which is improper on its own, and have proposed that it be placed before the infringement question. First, Defendants’ licensing/exhaustion defense does not extinguish Plaintiffs’ claim, it would only potentially reduce damages. So it is subsidiary to damages. Second, the question is misleading to the jury. Whether Schrader’s accused products were used with licensed products means nothing legally, and a jury finding on the issue would not result in the relief Defendants’ seek. There is no dispute that Schrader’s accused products are not licensed. So the licensed products have to substantially embody claim 6, and to show substantial embodiment requires two factors, which are not included in the questions. Third, if a licensing question is allowed by the Court, it must come after the infringement questions. *See IBM Corp. v. Groupon, Inc.*, No. 16-122-LPS, D.I. 390 (Verdict Form).

Defendants’ Proposal: Defendants maintain that their Proposed Patent Exhaustion jury inquiry is proper and should precede the indirect infringement determination because there can be no infringement of “licensed” products as detailed in the proposed jury instructions.

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Dated: January 28, 2020

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PLAINTIFFS' PROPOSED VERDICT FORM

We, the jury, unanimously find as follows:

I. INFRINGEMENT

1. Have Plaintiffs proven by a preponderance of the evidence that Schrader induced infringement of claim 6 of the '524 patent?

YES _____
(Verdict in favor of Wasica/BlueArc)

NO _____
(Verdict in favor of Schrader)

2. Have Plaintiffs proven by a preponderance of the evidence that Schrader contributed to the infringement of claim 6 of the '524 patent?

YES _____
(Verdict in favor of Wasica/BlueArc)

NO _____
(Verdict in favor of Schrader)

(If you answered “Yes” to either Question 1 or 2 above, continue to Section II.)

II. DAMAGES

If you find that claim 6 is infringed (by answering “Yes” for either of the infringement questions (Section I, Questions 1 or 2) then please answer the following question.

3. What amount of a reasonable royalty have Plaintiffs proven by a preponderance of the evidence will fairly compensate Plaintiffs for Schrader’s infringement?

\$ _____

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You have now reached the end of the verdict form, and you should review it to ensure it accurately reflects your unanimous determinations. You must each sign the verdict form in the spaces below and notify the Jury Officer after you have reached a verdict.

Date: _____

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DEFENDANTS' PROPOSED VERDICT FORM

We, the jury, unanimously find as follows:

III. INFRINGEMENT

1. Has Schrader proven by a preponderance of the evidence that some or all of the accused products were used with licensed products?

YES _____
(Verdict in favor of Schrader)

NO _____
(Verdict in favor of Wasica/BlueArc)

(If you Answer No above or determined that only some of the accused products were used with licensed products in answering Yes to Question 1 above, continue to Questions 2 and 3 below).

2. Has Wasica/BlueArc proven, by a preponderance of the evidence, that Schrader induced infringement of claim 6 of the '524 patent?

YES _____
(Verdict in favor of Wasica/BlueArc)

NO _____
(Verdict in favor of Schrader)

3. Has Wasica/BlueArc proven, by a preponderance of the evidence, that Schrader contributed to the infringement of claim 6 of the '524 patent?

YES _____
(Verdict in favor of Wasica/BlueArc)

NO _____
(Verdict in favor of Schrader)

(If you answered "Yes" to either Question 2 or 3 above, continue to Section II.)

IV. DAMAGES

If you find that claim 6 is infringed (by answering “Yes” for either of the infringement questions (Section I, Questions 2 or 3).

(If you find that Wasica/BlueArc failed to provide Schrader Actual Notice of Infringement before filing its Complaint, you can only include post filing infringement activity in your reasonable royalty calculation.)

6. What amount of a reasonable royalty has Wasica/BlueArc proven by a preponderance of the evidence based on a hypothetical negotiation between Wasica/BlueArc and Schrader?

\$ _____

* * *

You have now reached the end of the verdict form, and you should review it to ensure it accurately reflects your unanimous determinations. You must each sign the verdict form in the spaces below and notify the Jury Officer after you have reached a verdict.

Date: _____

_____	_____
_____	_____
_____	_____
_____	_____